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असाधारण

EXTRAORDINARY

भाग II-खण्ड 3-उपखण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF FINANCE

(Department of Revenue)

NOTIFICATION

CENTRAL EXCISES

New Delhi, the 5th November 1965

TAX CREDIT CERTIFICATE (EXCISE DUTY ON EXCESS CLEARANCE)
SCHEME, 1965

G.S.R. 1636.—In exercise of the powers conferred by section 280ZE read with section 280ZD of the Income-tax Act, 1961 (43 of 1961) and all other powers enabling it in this behalf the Central Government hereby makes the following Scheme, namely:—

1. Short title and commencement.—(1) This Scheme may be called the Tax Credit Certificate (Excise Duty on Excess Clearance) Scheme, 1965.

(2) It shall come into force on the 1st day of December, 1965.

2. Definitions.—(1) In this Scheme, unless the context otherwise requires,—

(a) "Act" means the Central Excises and Salt Act, 1944 (1 of 1944);

(b) "Board" means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963);

- (c) "Central Authority" means the Director of Tax Credit (Exports) appointed under the Tax Credit Certificate (Exports) Scheme, 1965;
- (d) "certificate" or "tax credit certificate" means a tax credit certificate referred to in section 280ZD of the Income-tax Act, 1961 (43 of 1961);
- (e) "Circle Officer" means an officer of a rank not lower than Superintendent of Central Excise who is in supervisory charge of the Factory Officer;
- (f) "Factory Officer" means a Central Excise Officer as defined in the Act who is in immediate charge of the factory in which the goods are manufactured or produced;
- (g) "Form" means a form set out in Schedule II to this Scheme;
- (h) "goods" means any excisable goods in respect of which a tax credit certificate can be granted under this Scheme;
- (i) "paragraph" means a paragraph of this Scheme and "sub-paragraph" means a sub-paragraph of the paragraph in which the word occurs;
- (j) "person" has the same meaning as in the Income-tax Act, 1961 (43 of 1961);
- (k) "Rules" means the Central Excise Rules, 1944.

(2) All other words and expressions used herein and not defined, but defined in the Act or the Rules, shall have the same meanings respectively assigned to them in the Act or the Rules, as the case may be.

3. Goods and rates of tax credit.—Subject to the provisions of this Scheme, a certificate shall be granted in respect of any class of goods specified in column (2) of Schedule I to this Scheme and falling under the item specified in the corresponding entry in column (3) thereof for the amount calculated at the rate specified in the corresponding entry in column (4) of the said Schedule.

4. Computation of base-year clearances in certain cases.—When any person begins to manufacture or produce any goods in a factory after the 1st day of April in the base year, the quantum of goods deemed to have been cleared in that year for the purpose of determining the amount of the certificate for or in respect of any relevant financial year, shall be one-half of the quantum of the goods actually cleared during the period of twelve months commencing on and from the date of first clearance of the said goods on payment of duty of excise in accordance with the Act and the Rules.

5. Application for issue of tax credit certificate.—(1) Any person eligible for the grant of a certificate in respect of any class of goods may make an application to the Central Authority in Form A in respect of each financial year for which he is so eligible and such application shall be accompanied by a Declaration in Form B of the goods cleared or deemed to have been cleared in the base year and the goods cleared in the relevant financial year, verified by the Factory Officer and countersigned by the Circle Officer:

Provided that where any person owns more than one factory manufacturing or producing the same class of goods, then the application in Form A shall be accompanied by a Declaration in Form B in respect of each such factory for the base year and the relevant financial year.

(2) Every application in Form A for a certificate for any financial year shall be presented to the Central Authority on or before the thirtieth of June following the last day of that financial year:

Provided that in the case of any factory commencing manufacture or production of goods after the first day of April of the base year, the application in Form A may be presented to the Central Authority within ninety days of the expiry of twelve months from the date of first clearance of such goods from such factory in accordance with the Act and the Rules.

(3) The Central Authority may, if satisfied that the applicant had sufficient cause for not presenting the application in Form A in time, condone any delay in presenting the application for a period not exceeding sixty days.

6. Grant of certificate.—(1) The Central Authority may, after making such inquiry as it deems fit, by order determine the eligibility of the applicant for the certificate and the amount thereof.

(2) Where the Central Authority is satisfied that the applicant is so eligible, it shall grant the certificate in Form C for the amount determined by it under sub-paragraph (1) and forward the same to the applicant together with a copy of the order under that sub-paragraph.

(3) Where as a result of the inquiry, the Central Authority is satisfied that the applicant is not eligible for the grant of the certificate, it may, by order and sub-paragraph (1) and forward the same to the applicant together with a copy of such order to the applicant.

7. Period for using amount of certificate.—The period referred to in the proviso to sub-section (5) of section 280ZD of the Income-tax Act, 1961 (43 of 1961), shall be a period of three consecutive financial years commencing with the financial year in respect of which the certificate is granted.

8. Production of certificate before the Income-tax Officer.—(1) When a person who has been granted a certificate in accordance with paragraph 6 desires to get the amount of the said certificate adjusted or, as the case may be, refunded, he shall produce the certificate along with a statement in Form D before the Income-tax Officer who shall grant a receipt in respect thereof in Form E.

(2) The Income-tax Officer shall thereafter proceed to adjust or, as the case may be, refund the amount shown in the certificate, in accordance with the provisions of sub-section (5) of section 280ZD of the Income-tax, 1961 (43 of 1961).

9. Appeal.—(1) Any person aggrieved by an order of the Central Authority passed under paragraph 6 may appeal to the Board against such order.

(2) Every appeal under sub-paragraph (1) shall be filed by the person aggrieved within ninety days of the date on which the order sought to be appealed against is served on him and in a case where the appeal is against an order granting a certificate, it shall be filed within the aforesaid period and also before the certificate granted is produced before the Income-tax Officer for such adjustment or refund as is provided for in sub-section (5) of section 280ZD of the Income-tax Act, 1961 (43 of 1961).

(3) Every appeal as aforesaid shall be in Form F and be accompanied by a copy of the order appealed against and where a certificate has been granted by the Central Authority, also by such certificate (in original) which shall be retained by the Board and dealt with in accordance with such order as the Board may pass under sub-paragraph (5).

(4) The Board may admit an appeal after the expiration of the period specified in sub-paragraph (2) if it is satisfied that the appellant had sufficient cause for not filing it within that period.

(5) The Board may, after giving the appellant a reasonable opportunity of being heard, pass an order,—

(a) where the appeal is against an order rejecting the application for the certificate,—

- (i) confirming the order appealed against, or
- (ii) setting aside the said order and directing the Central Authority to grant a certificate for an amount to be specified therein, or
- (iii) setting aside the said order and directing the Central Authority to make a fresh determination under paragraph 6;

(b) where the appeal is against an order granting a certificate,—

- (i) confirming the order appealed against, or
- (ii) varying the said order and directing the issue of a fresh certificate for an amount to be specified therein in lieu of the certificate already issued, or
- (iii) setting aside the said order and directing the Central Authority to make a fresh determination under paragraph 6, or
- (iv) setting aside the said order and cancelling the certificate issued;

Provided that the Board shall not pass an order cancelling the certificate issued or directing the issue of a fresh certificate for a lesser

amount than that for which the certificate was originally granted, unless the appellant has been given a reasonable opportunity of showing cause specifically against such cancellation or direction.

(6) Where the Board confirms an order granting a certificate, it shall return the certificate to the appellant and where it passes any other order, it shall cancel the certificate.

(7) The Board may, before disposing of any appeal, make such further inquiry as it thinks fit or direct the Central Authority to make such inquiry and report the result thereof to the Board.

(8) The Board may, where it considers it necessary so to do, require the presence of the Central Authority at the time of the hearing of the appeal.

(9) A copy of the order passed under sub-paragraph (5) shall be given to the appellant.

10. Modification of orders and certificates under certain circumstances.—(1) Clerical or arithmetical mistakes in any orders passed by the Central Authority under paragraph 6 or by the Board under paragraph 9, or errors arising therein from any accidental slip or omission may, at any time, be corrected by the Central Authority or the Board, as the case may be, either on its own motion or on application by the person in relation to whom the order was passed.

(2) If—

(i) the Board has reason to believe that, by reason of the omission or failure on the part of the person to whom a certificate has been issued under this Scheme to disclose fully and truly all material facts necessary for making a correct determination under paragraph 6, the certificate has been issued for an amount in excess of the amount for which the certificate should have been issued, or

(ii) notwithstanding that there has been no omission or failure as mentioned in clause (i) on the part of such person, the Board has, in consequence of information received by it or otherwise, reason to believe that the certificate has been issued for an amount in excess of the amount for which the certificate should have been issued,

it shall, after making such inquiry as it deems fit, cancel the certificate already issued and either direct the issue of a fresh certificate for an amount to be specified therein in lieu of the certificate already issued, or direct the Central Authority to make a fresh determination under paragraph 6.

(3) No order under sub-paragraph (2) shall be made unless the Board has given notice to the person to whom a certificate was originally issued of its intention so to do and has allowed such person a reasonable opportunity of being heard.

(4) The Central Authority or the Board may recall the certificate immediately on commencement of action under sub-paragraph (1) or sub-paragraph (2) or at anytime thereafter and the certificate so recalled shall be dealt with in accordance with such order as may be passed under that sub-paragraph.

(5) Where in pursuance of action taken under sub-paragraph (1) or sub-paragraph (2), it is found that the amount for which a certificate was originally issued to a person is in excess of the amount finally determined, the Central Authority may set off the amount of such excess against the amount of any other certificate which has become due to the same person.

(6) Where at any time after action has been initiated under sub-paragraph (1) or sub-paragraph (2), the Central Authority or the Board finds that the relevant certificate has already been produced before the Income-tax Officer and that—

(i) no adjustment or payment has been made in pursuance of sub-section (5) of section 280ZD of the Income-tax Act, 1961 (43 of 1961), it may recall the certificate and deal with it in accordance with the order under either of the said sub-paragraphs;

(ii) a part of the amount covered by the certificate has been adjusted and the payment of the balance has not been made under the provisions of the said sub-section, it may cancel the certificate in so far as it relates to the amount of such balance and thereafter, where necessary, issue or cause to be issued a fresh certificate in accordance with the order under either of the said sub-paragraphs;

- (iii) the whole of the amount covered by the certificate has been adjusted or paid under the aforesaid sub-section, or in a case falling under clause (ii) the amount already adjusted is in excess of the amount finally determined under the order aforesaid, the Central Authority may on its own motion or, as the case may be, if so required by the Board, forward to the Income-tax Officer an authorisation in Form G for an amount equal to the sum by which the amount of the certificate originally issued, or as the case may be, the amount adjusted, exceeds the amount finally determined and on receipt of such authorisation, the Income-tax Officer shall serve upon the person a notice of demand under section 156 of the Income-tax Act, 1961 (43 of 1961) for the amount specified therein as if it were a sum payable in consequence of any order passed under the said Act and all the provisions of the said Act shall apply accordingly.

11. Devolution or transfer of right in or title to certificates.—(1) Where by reason of incapacity, insolvency or any other cause, an individual is unable to claim or receive a certificate to which he is eligible under this Scheme or to claim adjustment or refund of the whole or part of the amount of a certificate granted to him, or where an individual entitled to claim or receive a certificate or as the case may be, to claim adjustment or refund as aforesaid, dies, his guardian or the receiver, or legal representative, as the case may be, may claim or receive such certificate, adjustment or refund, for the benefit of such individual or his estate in accordance with the provisions of this Scheme as if the person claiming or receiving were such individual and all the provisions of this Scheme shall apply accordingly.

(2) Where by reason of dissolution thereof, any firm or association of persons or body of individuals is unable to claim or receive a certificate to which it is eligible under this Scheme, or to claim adjustment or refund of the whole or part of the amount of a certificate granted to it, the persons who were its partners or members immediately before its dissolution, may claim or receive such certificate, adjustment or refund, for an amount calculated in accordance with the proportion in which they were entitled to share the profits immediately before such dissolution and all the provisions of this Scheme shall apply accordingly as if every such person were the person eligible for such certificate, adjustment or refund, as the case may be, in so far as it relates to such share.

(3) Where a Hindu Undivided Family eligible for grant of a certificate or for the adjustment or refund of the whole or part of the amount thereof is partitioned (whether totally or partially) and an order has been recorded by the Income-tax Officer under sub-section (3) of section 171 of the Income-tax Act, 1961 (43 of 1961) in respect of such family, every member thereof may claim or receive such certificate, adjustment or refund calculated in accordance with the proportion in which they were entitled to share the assets of the family at the partition and all the provisions of the Scheme shall apply accordingly as if such member were the person eligible for such certificate, adjustment or refund, as the case may be, in so far as it relates to such share.

12. Service of notices, orders and certificates.—All notices, orders and certificates issued by the Board or the Central Authority under this Scheme may be addressed and served in the manner specified in section 282 of the Income-tax Act, 1961 (43 of 1961) for the service of notice.

13. Power to obtain information from Central Excise Officers.—For purposes of any inquiry under this Scheme, the Central Authority or the Board may require officers of the Central Excise Department to furnish any information, return or report which the Central Authority or the Board may consider necessary.

14. Issue of duplicate certificate.—(1) In the event of loss or destruction of a certificate the amount shown whereon has not already been adjusted or refunded by the Income-tax Officer under section 280ZD of the Income-tax Act, 1961 (43 of 1961), the Central Authority may, on application made to it and after making such inquiry as it deems fit, issue a duplicate of such certificate:

Provided that no such application for a duplicate shall be entertained after the expiry of one year from the date of the original certificate.

(2) Where a duplicate has been issued under sub-paragraph (1), it shall bear the following endorsement in red ink, namely, "Duplicate-Valid only if the original has not been acted upon"; and the original certificate, if and when discovered or produced thereafter, shall be of no effect, shall be cancelled and returned to the Central Authority.

SCHEDULE I
(See Paragraph 3)

Class of good	Item No. in the First Schedule to the Act	Rate, being the percentage of duty of excise payable on the quantum of goods cleared in the relevant financial year in excess of the quantum cleared or deemed to have been cleared in the base year
(1)	(2)	(4)
(1) Soda Ash	14A	20%
(2) Caustic Soda whether in solid form or in flakes or in the form of lyc.	14B	20%
(3) Paper, all sorts, other than (i) newsprint, and (ii) boards, including paste board, mill board, straw board, pulp board, card board and coated board.	17	15%
<i>Explanation :—</i>		
Newsprint referred to above shall be deemed to be paper containing mechanical wood pulp amounting to not less than fifty per cent of its fibre content.		
(4) Newsprint referred to in S. No. 3	17	25%
(5) Cement, all varieties.	23	25%

SCHEDULE II

FORM A

(See paragraph 5)

Central Excise Circle.....

Income-tax Circle.....

Application for Tax Credit Certificate on Excess Clearance made during the Financial Year.....

1. Name and address of the manufacturer or producer.

2. Status

(whether individual, firm, etc.)

3. Description of goods.

4. Particulars of factories and clearances.
(A declaration in Form B should be attached in respect of each factory)

Sl. No.	Name and location of the factory	Base year	Clearances during the base year	Clearances during the financial year	Excess (+) or shortfall (—)	Remarks
1.	2.	3.	4.	5.	6.	7.

1.
2.
3.

Total

5. Rate at which the tax credit certificate is admissible.
6. Amount for which the tax credit certificate is claimed.

(where necessary, a worksheet showing detailed calculations in respect of each factory should be attached.)

I/We declare that,—

- (i) to the best of my/our knowledge and belief, the information given above is true and complete;
- (ii) I/We have not omitted particulars of any factory manufacturing _____ (description of goods) and owned by me/us ;
- (iii) I/We have not so far lodged any claim for tax credit certificate in respect of _____ cleared by any of the above factories during the financial year _____ (description of goods).
- (iv) I/We have understood the provisions contained in the Tax Credit (Excise Duty on Excess clearance) Scheme, 1965 and agree to abide by the same; and
- (v) I/We am/are aware that any certificate granted to me/us or refund or adjustment allowed in pursuance thereof shall be subject to the provisions of the said Scheme, and in particular paragraph 10 of the said Scheme, and agree to abide by it.

*(Signature)

Place _____ Full Name _____

Date _____ Status in relation to the manufacturer or producer _____

The declaration shall be signed by the person empowered to sign and verify a return of income in accordance with section 140 of the Income-tax Act, 1961. The capacity in which the declaration is signed should be indicated, for example, individuals, firm, etc.

ORIGINAL

DUPLICATE

FORM B

(See paragraph 5)

Central Excise Sector/Range—.....

Central Excise Circle.....

(Declaration of Excess clearance)

1. Name and location of the factory.
2. Central Excise licence No.
3. Description of goods and the Central Excise Tariff item and sub-item under which they are assessable.
4. (a) Base year.
(b) Dates of commencement of production and first clearance in the case of factories governed by paragraph 4.
5. Relevant financial year for which tax credit certificate is claimed.
6. (a) Clearances made during the base-year—
(i) for home consumption
(ii) for export
(iii) Total.
(b) (In the case of factories governed by paragraph 4). The quantum deemed to have been cleared during the base-year, as arrived at in terms of that paragraph,
7. Clearances during the relevant financial year—
(i) for home consumption—
(a) quantity cleared
(b) amount of duty paid
(ii) for export—
(a) quantity cleared
(b) duty payable if the entire quantity cleared for export had been cleared for home consumption.
(iii) Total quantity cleared.
8. Excess or short-fall in clearances
Column 7(iii) minus column 6(a) (iii) or 6(b) as the case may be.
9. Date on which the quantum cleared during the base-year was exceeded during the relevant financial year.
10. Effective rate(s) of basic Central Excise duty applicable to the above factory from time to time during the relevant financial year.

21. Remarks.

I/We declare that to the best of my/our knowledge and belief, the information given above is true.

Place.

Signature*.....

Date.

Full name.....

Status in relation to the manufacturer or producer.....

Countersigned

Verified with Central Excise records and found correct.

Circle Officer

Factory Officer of Central Excise.

*The declaration shall be signed by the person empowered to sign and verify a return of income in accordance with section 140 of the Income-tax Act, 1961. The capacity in which the declaration is signed should be indicated, for example, individual, firm etc.

COUNTERFOIL FORM C

FOIL

FORM C

(See paragraph 6)

(See paragraph 6)

TAX CREDIT CERTIFICATE (EXCISE
DUTY ON EXCESS CLEARANCE)TAX CREDIT CERTIFICATE (EXCISE
DUTY ON EXCESS CLEARANCE)NATIONAL EMBLEM
GOVERNMENT OF INDIANATIONAL EMBLEM
GOVERNMENT OF INDIA

Certificate not negotiable.

Certificate not negotiable.

Book No. Voucher No.

Book No. Voucher No.

Office of the Director of Tax Credit (Exports),
New Delhi.OFFICE OF THE DIRECTOR OF TAX
CREDIT (EXPORTS), NEW DELHI.

1. Certificate issued

Whereas

to _____
(name and address)(name and address of
the manufacturer or producer)
has /have
cleared during the financial year—

2. Amount of tax credit certificate Rs.

from his/their factory(ies) mentioned
below—

3. Reference No.

(Quantity) (description)

4. Description of goods—

—in excess of the
of goods)

5. Financial year in respect of which the certificate has been granted

quantum of the said goods cleared or deemed
to have been cleared from the said factory
(ies) during the base year:

Name and location of the factory(ies)

6.(a) Quantity of excess clearance.....

(b) duty payable thereon.....

7. Rate of tax credit.....

And whereas the duty of excise payable on
the said goods cleared in excess amounts to
Rs.
(Rupees.....).*Audit*

Certificate examined and found correct.

And whereas he is/they are entitled to a tax
credit at the rate of.....per
cent on the said sum under section 280
2D of the Income-tax Act, 1961 read
with the Tax Credit Certificate (excise
Duty on Excess Clearance) Scheme, 1965:

Date

(Auditor)

Now, therefore, he is/they are hereby granted
a tax credit certificate for Rs.
(Rupees.....)
under the aforesaid provisions.

Director of Tax Credit (Exports)
Sea _____ New Delhi.
Place.....
Date.....

FORM D

(See paragraph 8)

Form of Application for Adjustment or Refund of the Amount of the Certificate.

To

The Income-tax Officer,
.....

Sir,

I/We hereby apply for adjustment and/or refund of the amount of the certificate granted to me/us under section 280 ZD. The following particulars are furnished herewith :

- (1) Name and address in full.
- (2) Status (whether individual, H.U.F., Company etc.)
- (3) G.I.R. No.
- (4) Financial year in respect of which the certificate has been granted.
- (5) Serial No. and date of the certificate.
- (6) Designation of the competent officer who issued the certificate.
- (7) Amount of the certificate.
- (8) Details showing amount used for the purposes specified in the proviso to sub-section (5) of Section 280 ZD :

	19 -19	19 -19	19 -19	Total
(i) Amount used for repayment of loans taken from any financial institution notified by the Central Government. (Details as per Annexure).				
(ii) Amount used for the acquisition of any capital asset in India including the construction of any building, for the purposes of the business. (Details as per Annexure).				
(iii) Amount used for redemption of debentures. (Details as per Annexure).				
Total				

I/We hereby declare that what is stated in this application is correct.

Date.....

Signature.....

Place.....

Address.....

FORM E

*See paragraph 8)**Receipt for Certificate Produced before the Income-Tax Officer.*

Received from _____

(name and address)

Tax Credit Certificate Book No. _____ Voucher No. _____ dated _____
issued by the Director of Tax Credit (Exports), New Delhi, for Rs. _____

(Signature of Income-tax Officer)

Place _____

Date _____

COURT FEE STAMP

FORM F

*(See paragraph 9)**Appeal to the Central Board of Excise and Customs, New Delhi*

1. Name and address of the applicant(s).
2. No. and date of the order appealed against.
3. Date on which the order appealed against was served on the appellant(s).
4. Explanation for delay if the appeal has not been filed within the time-limit specified in sub-paragraph (2) of paragraph 9.
5. No. and date of the certificate in respect of which the appeal is made.
6. Description of goods (with relevant serial number in Schedule I).
7. Base Year.
8. Quantity cleared or deemed to have been cleared during the Base year.
9. Relevant financial year.
10. Quantity cleared, during the relevant financial year.
11. Whether personal hearing is desired.
12. *Grounds of appeal

*If the space provided herein is insufficient, separate enclosures may be used for the purpose.

13. Relief claimed in Appeal.

A copy of the order appealed against bearing court fee stamp of _____ paise and the Certificate in original bearing Book No. _____ Voucher No. _____ dated _____ in respect of which the appeal is filed, are attached.

(Signature of appellant)

Verification

I/We the appellant(s) do hereby declare that what is stated above is true to the best of my/our information and belief.

Place _____

(Signature of the Appellant)

Date _____

Full Name _____
Status in relation to the manufacturer or producer _____

NOTE :—The form of appeal as completed above should be in duplicate.

FORM G

[See paragraph 10(6)(iii)]

Authorisation by the Director of Tax Credit (Exports) New Delhi.

To

the Income-tax Officer,

Whereas tax credit certificate Book No. _____ Voucher No. _____ dated _____ for an amount of Rs. _____ (Rupees _____) has been granted to _____ (Name and address) _____ under paragraph 6 of the Tax Credit Certificate (Excise Duty on Excess Clearance) Scheme, 1965 and the amount of the said certificate has been adjusted and/or paid ;

And whereas, in accordance with the determination under paragraph 10 read with paragraph 6 of the said Scheme, the amount adjusted and/or paid is not due/exceeds the amount determined as aforesaid by Rs. _____ (Rupees _____);

Now, therefore, you are hereby authorised under paragraph 10(6)(iii) of the said Scheme to realise the amount of Rs. _____ (Rupees _____) from _____ in accordance with the said provision.

Place _____ Director of Tax Credit (Exports) New Delhi.

Date and seal _____

[No. 177/65.]

B. N. BANERJEE, Addl. Secy.